

suggestion that the petitioner was Secretary of any workers Union as alleged. MW-1 Shri R. D. Khurana, Superintendent stated that the petitioner and others were appointed under "All India Research Project on Cattle", which scheme was funded by Indian Council of Agricultural Research, New Delhi to the extent of 75% and the remaining 25% by the Government of Haryana which scheme has since been wound up with effect from 30th June, 1986. The letter of the Government of India in that behalf is Ex. M-2 and that the petitioner was never sacked because of any ill will against him.

10. Here above I have given a brief resume of the evidence adduced by the parties. Both the parties have taken contradictory position. On the one hand, case of the petitioner is that he was sacked on 30th June, 1986, whereas in the Court he stated that he was shown the door on 28th July, 1987 which fact is apparently wrong. Similarly the stand taken by the respondent is also not consistent. In the reply filed before the Court the plea taken is that the petitioner started absenting from his duties in the month of February/March 1986 and that he abandoned his employment of his own. The crux of the evidence adduced by the respondent is a pointer to the fact that the petitioner was not a willing worker and was irregular in attending to his duties. Since the scheme, under which, the petitioner was employed as daily wage has since been wound up. So, there was no question of the respondent terminating the services of the petitioner. The petitioner has not come to the Court with the clear conscience. He has made discrepant statement on material facts regarding the alleged date of termination. So, there is no question of holding that the petitioner's services were terminated unlawfully when the petitioner himself is not sure about the alleged date of termination. The scheme under which the petitioner was employed has since been wound up. He was not a willing worker. Under these circumstances, he does not deserve the relief of reinstatement. The reference is answered and returned accordingly with no order as to cost.

Dated the 11th May, 1987.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak.

Endorsement No. 152-86/997, dated 15th May, 1987

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak,

No. 9/2/87-6Lab./3356.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s. Haryana Agriculture University, Hissar:—

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT,
ROHTAK

Reference No. 147 of 86

between

SHRIMATI KAMLA DEVI, APPLICANT AND THE MANAGEMENT OF
HARYANA AGRICULTURE UNIVERSITY, HISSAR

Shri T. C. Gupta, A. R., for the workman.

Shri B. D. Mehta, A. R., for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute, between the applicant Shrimati Kamla Devi and the management of M/s Haryana Agriculture University Hissar,

to this Court, for adjudication,—vide Haryana Government Gazette Notification No. 33221-25, dated 9th September, 1986:—

Whether the termination of services of Shrimati Kamla Devi is justified and in order ? If not, to what relief is she entitled ?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was appointed as a Sweeper on 23rd July, 1984 on monthly wages of Rs. 480 and that her service were terminated on 29th April, 1986 in flagrant disregard of the provisions of section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act.)

3. In the reply filed by the respondent, preliminary objections taken are that the petitioner is estopped from raising the present dispute by her own acts and conduct and that she has been in gainful employment after her termination and as such, in case of reinstatement, she will not be entitled for back wages and that her appointment was a stop gap arrangement and that on reinstatement of the principal worker her services were terminated, she being the junior most. On merits, it is alleged that S/Shri Jagdish and Phera were, earlier working in the College of Home Science as sweepers on daily paid labourer basis and that Registrar of the respondent University on 21st August, 1984 reported that the said Sweepers were involved in theft case of stepney of a Scooter and as such recommended their removal from service and as a stop gap arrangement the petitioner and one other were appointed as daily paid labourers/sweepers but subsequently on representation/appeal filed by the dismissed employee their case was reconsidered and they were ordered to be reinstated in retrenchment of the petitioner being junior most.

4. On the pleadings of the parties, the following issues were framed on 26th November, 1986 :—

1. Whether the petitioner is estopped for filing the claim by his acts and conducts ?

2. Whether the petitioner remained gainfully employed after his alleged termination ?

3. As per terms of reference.

5. In support of her case, the petitioner herself appeared as WW-1 and the respondent examined MW-1 Shri D. P. Narang, Administrative-cum-Accounts Officer.

6. Learned Authorised Representatives of the parties heard.

7. There is not an iota of evidence on record that the petitioner remained gainfully employed after her alleged retrenchment. So, there is no question of the back wages being not awarded to her, in case of reinstatement.

8. The gravamen of the respondent case is that the petitioner's appointment was a stop gap arrangement on the removal from service of daily paid labourer employees S/Shri Jagdish and Phera as the said employees were involved in a theft case of scooter stepney but later on the Registrar,—vide his order Ex. M-1 directed that these sacked employees be reinstated. He further directed that the junior most employees be retrenched from service and the petitioner being the junior most the axe fell upon her. This fact is not denied by the petitioner when she appeared in the Court as WW-1 that her appointment was in place of Jagdish. She also admitted that Shri Jagdish was involved in an attempted case of theft. She also admitted that she was junior most amongst sweepers. So, the case of the respondent has been virtually admitted by the petitioner. Now, the question would be as to whether retrenchment of the petitioner could be brought about in the manner done by the respondent. Her tenure of employment from 23rd July, 1984 to 29th April, 1986 was un-interrupted. So, in a way, the petitioner has put in 240 days of actual work with the respondent during the last 12 calendar months proceeding the date of her retrenchment. So her retrenchment would squarely fall within the ambit of term "retrenchment" as defined in section 2(oo) of the said Act. The same could not have been brought about without complying with the mandatory provisions of section 25-F of the said Act. No compliance was made by the respondent. So, her retrenchment was void *abinitio* and as such, order of retrenchment is set aside being illegal and unlawful.

9. Now, the question to relief survives. It may be possible that there may be no vacancy of a sweeper in the College of Home Science where the petitioner was employed. But the respondent university is a huge organisation employing thousands of employees and it would not be a difficult task for the respondent to reinstate the petitioner. So, the petitioner is ordered to be reinstated with continuity of service and full back wages. Full back wages have been awarded

because the petitioner raised the demand notice within a week of her retrenchment, as the demand notice received alongwith the order of reference is dated 6th May, 1986. She was retrenched from service on 29th April, 1986. The reference is answered and returned accordingly with no order as to cost.

Dated the 7th May, 1987.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.

Endst. No. 147-86/996, dated the 15th May, 1987.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.

The 22nd June, 1987

No. 9/4/87-6Lab./3619.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal Faridabad, in respect of the dispute between the workman and the management of M/s National Council for Cement and Building Material, Mathura Road, Ballabgarh:—

BEFORE SHRI S. B. AHUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 214 of 1986

between

SHRI RANVIR SINGH, S/O SHRI GANGA SHARAN C/O SHRI DARSHAN SINGH,
GENERAL SECRETARY, AITUC, FARIDABAD INDUSTRIAL WORKERS UNION,
MARKET NO. 1, N.I.T., FARIDABAD AND THE MANAGEMENT OF M/S
NATIONAL COUNCIL FOR CEMENT AND BUILDING MATERIAL,
MATHURA ROAD, BALLABGARH.

Present :

Shri Darshan, Singh, A. R. for the workman.

Shri C. M. Lal, A. R., for the management.

AWARD

1. In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Ranvir Singh workman and the management of M/s National Council for Cement and Building Material, Mathura Road, Ballabgarh, to this Court, for adjudication:—

Whether the termination of services of Shri Ranvir Singh is justified and in order ? If not, to what relief is he entitled ?

2. Notices of the reference were sent to the parties, who appeared.

3. The petitioner's case is that he was appointed as Mali in January, 1984, but the respondent illegally terminated his service on 21st August, 1986 without any reason. He prayed for reinstatement with full back wages and continuity of service.

4. The respondent contested the case of the petitioner. It was *inter alia* pleaded that the Government of Haryana is not the 'Appropriate Government' within the meaning of section 2 (a) of the Industrial Disputes Act *vis-a-vis*, the Management Institute and this Tribunal has no jurisdiction to entertain and adjudicate upon the present reference. It is not necessary to reproduce the other pleas taken in the written statement because the reference is being disposed of otherwise than on merits.

5. On the pleadings of the parties, the following preliminary issue was settled:—

(1) Whether the Government of Haryana is not an appropriate Government to make the reference in this case ? OPR

6. The Management produced on record copy of award, dated 8th March, 1983 passed by Shri M. C. Bhardwaj, the then Presiding Officer, Industrial Tribunal, Haryana, Faridabad, wherein he had held that Central Government was the 'appropriate Government' for Cement Industries qua the Management of M/s Cement Research Institute of India, Ballabgarh. Ex. M-2 is the copy of award, dated 17th December, 1981 passed by Shri Hari Singh Kaushik, Presiding Officer, Labour Court to the same effect. Ex. M-3 is the copy of Cement Control Order, 1967 and Ex. M-4 is the copy of Cement Control (Third Amendment) Order, 1982. Ex. M-5 is the copy of memorandum issued by the Under Secretary to Government of India, Ministry of Industry and Company Affairs which shows that Cement Research Institute of India, which is under the administrative control of Central Government has been re-designated as National Council for Cement and Building Materials. Ex. M-6 is the copy of notification of 8th November, 1977 which shows that by notification under sub-clause (i) of clause (a) of section 2 of the Industrial Disputes Act, 1947, the Central Government has specified, for the purposes of that sub-clause, the controlled industry engaged in the manufacture or production of Cement, which has been declared as controlled industry under section 2 of the Industries (Development and Regulation) Act, 1951 (65 of 1951). Besides this Ex. M-7 is the copy of Memorandum of Association of the Society viz. National Council for Cement and Building Material.

7. The workman has not adduced any evidence.

8. I have heard Shri Darshan Singh, Authorised Representative for the workman and Shri C.M. Lal, Authorised Representative for the respondent-management and perused the record on the file.

9. The learned authorised representative for the Management contended that for the purposes of this case, the appropriate Government under section 2(a)(i) of the Industrial Disputes Act, 1947 was the Central Government as Management Institute was covered under Cement Industrial i.e. controlled industry. There is ample merit in his contention. Section. 2(a) (i) of the Industrial Disputes Act, 1947 states :

(a) 'Appropriate Government' means :—

“(i) in relation to any industrial disputes concerning any industry carried on by or under the authority of Central Government or by a Railway Company or concerning any such controlled industry as may be specified in this behalf by the Central Government. X X X X X X X X X, the Central Government, and”

10. In order that the Central Government may be 'appropriate Government' in relation to controlled industry, two requirements are to be satisfied viz., (i) industry should be a 'controlled industry', and (ii) it should have been specified in this behalf i.e. for the purpose of section 2 (a) (i) of the Industrial Disputes Act, 1947. Both these requirements are fulfilled in this case. An industry engaged in the manufacture or production of cement and gypsum products is controlled industry under the First Schedule to the Industries Development and Regulation Act, 1951. Besides this said industry has also been specified as controlled industry for the purposes of section 2(a)(i) of the Industrial Disputes Act, 1947 by the Central Government,—vide notification Ex. M-6 of November, 1977.

11. Shri Darshan Singh, Learned Authorised Representative of the workman cited the case of **Paritosh Kumar Pal V/s State of Bihar and others**, 1984—Lab. I.C. 1254 (Patna High Court) and urged that situs of the employment of the workman would determine Tribunal's jurisdiction. This ruling is not applicable to the facts of this case. Besides this, he cited the cases of **Marine Diesel Engine Project, Dhurwa, Ranchi V/s State of Bihar and Others**, 1981-Lab.I.C. page 1370, **Vinod Rao V/s Presiding Officer Ist Labour Court, Ahmedabad and Others**, 1980 Lab.I.C. 1191 and **Bihar Khadi Gramodyog Sangh Muzaffarpur V. State of Bihar and others** 1977 Lab.I.C. page 466 and urged that the employee was employed within the jurisdiction of Haryana and as such, Haryana Government is the appropriate Government. The authorities cited by him have no bearing to determine controversy in this case.

12. Hence I come to the conclusion that 'Central Government' is the 'appropriate Government' for the Cement industry vis-a-vis the respondent-management Institute. Therefore, I held that this Tribunal has no jurisdiction to deal with the present reference. That apart Cement Research Institute of India which has now been redesignated as National Council for Cement and Building Material is under the administrative control of the Government of India as is apparent from the memorandum Ex. M-5 dated 18th June, 1985. The workman may seek his remedy by moving appropriate Government. Therefore, the reference is bad on above ground and I pass the award accordingly.

S. B. AHUJA,

Presiding Officer,

Industrial Tribunal, Haryana.
Faridabad.

Dated the 28th April, 1987.

Endorsement No. 481, dated the 30th April, 1987

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

S. B. AHUJA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9/4/87-6 Lab./3620.— In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s. National Council for Cement and Building Material, Mathura Road, Ballabgarh :—

BEFORE SHRI S.B. AHUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 215/1986

between

SHRI GAJRAJ SON OF SHRI SONI C/O SHRI DARSHAN SINGH GENERAL SECRETARY AITUC
FARIDABAD INDUSTRIAL WORKERS UNION, MARKET NO. 1, N. E. T. FARIDABAD
AND THE MANAGEMENT OF M/S. NATIONAL COUNCIL FOR CEMENT AND BUILDING
MATERIAL MATHURA ROAD, BALLABGARH.

Present :—

Shri Darshan Singh, A.R. for the workman.

Shri C. M. Lal, A.R. for the management.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Gajraj workman and the management of M/s National Council for Cement and Building Material Mathura Road, Ballabgarh to this Tribunal for adjudication :—

Whether the termination of services of Shri Gajraj is justified and in order, if not, to what relief is he entitled ?

2. Notices of the reference were sent to the parties and appeared.

3. The Petitioner's case is that he was appointed as a Mali in May, 1983, but the respondent illegally terminated his service on 21 August, 1986 without any reason. He prayed for reinstatement with full back wages and continuity of service.

4. The respondent contested the case of the petitioner. It was *inter alia* pleaded that the Government of Haryana is not the 'Appropriate Government' within the meaning of Section 2(a) of the Industrial Disputes Act, 1947 vis-a-vis, the Management Institute and this Tribunal has no jurisdiction to entertain and adjudicate upon the present reference. It is not necessary to reproduce the other pleas taken in the written statement because the reference is being disposed of otherwise than on merits.

4-A. On the pleadings of the parties, the following preliminary issue was settled:—

(1) Whether the Government of Haryana is not a 'Appropriate Government' to make the reference in this case? OPR

5. The Management produced on record copy of award dated 8th March, 1983 passed by Shri M.C. Bhardwaj, the then Presiding Officer, Industrial Tribunal, Haryana, Faridabad wherein he had held that Central Government was the 'Appropriate Government' for Cement Industries qua the Management of M/S Cement Research Institute of India, Ballabgarh. Ex. M-2 is the copy of award, dated 17th December, 1981, passed by Shri Hari Singh Kaushik, Presiding Officer, Labour Court to the same effect. Ex. M-3 is the copy of Cement Control Order, 1967 and Ex. M-4 is the copy of Cement Control (Third Amendment) order, 1982. Ex. M-5 is the copy of memorandum issued by the Under Secretary to Government of India, Ministry of Industry and Company Affairs which shows that Cement Research Institute of India which is under the administrative control of Central Government has been re-designated as

